

TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
June 21, 2010

The Tippecanoe County Commissioners met on Monday, June 21, 2010 at 10:00 a. m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President John L. Knochel, Vice President David S. Byers, and Commissioner Thomas P. Murtaugh. Also present were: Attorney David W. Luhman, Auditor Jennifer Weston, Commissioner's Assistant Frank Cederquist, and Secretary Kay Muse.

APPROVAL OF MINUTES

- Commissioner Murtaugh moved to approve the minutes of the June 7, 2010 regular meeting, second by Commissioner Byers; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHER

Commissioner's Assistant Frank Cederquist recommended approval of accounts payable vouchers for June 9, 10, 11, 16, 17, 18, and June 21, 2010. He went on to say the auditor's name has been removed from one claim for an interpreter for Superior Court 6.

- Commissioner Murtaugh moved to approve the accounts payable vouchers as presented, second by Commissioner Byers; motion carried.

HIGHWAY-Opal Kuhl

2010 Culvert Replacement-Awarding of Bid

Director Kuhl recommended awarding the bid to F&K Construction with the low bid of \$427,039. The designers Butler, Fairman & Seufert and the Highway Department have reviewed the bid.

- Commissioner Murtaugh moved to award the bid to F&K Construction as presented, second by Commissioner Byers; motion carried.

McCarty Lane Extension Project-Local Planning Authority Contract-DLZ Indiana, LLC

Director Kuhl presented a construction and engineering agreement with DLZ Indiana, LLC for the McCarty Lane project. The original contract was for the design work and construction inspection. Because federally supported projects take several years to complete, the inspection portion of the contract was not signed. This is in the amount of \$1,220,000 approximately 12% of the cost of the project, INDOT guidelines allow up to 15% of the cost of the project.

- Commissioner Murtaugh moved to approve the LPA contract with DLZ Indiana, LLC. as presented, second by Commissioner Byers; motion carried.

Unofficial Local Detour Route for SR 38-Letter of Understanding

Director Kuhl stated that this is for the unofficial detour route for State Road 38. The detour path runs up CR 475 E and across on CR 200S also known as Haggerty Road and then down CR 900 E. A portion of the detour, from the interstate to the east, is in the county. Inspector Mike Parks and INDOT did visit the site and video the portion of the detour that is in the county. Any damage to the road will be assessed and repaired by INDOT.

- Commissioner Murtaugh moved to accept the Letter of Understanding as presented, second by Commissioner Byers; motion carried.

Continuation Certificate–Indiana Gas Company, Inc. dba Vectren Energy Delivery of Indiana, Inc.

Director Kuhl stated that this is the normal Continuation Certificate that the County receives from Vectren for doing work in the right-of-way. It is in the amount of \$5,000.

- Commissioner Murtaugh moved to accept the Continuation Certificate from Indiana Gas Company, Inc. as presented, second by Commissioner Byers; motion carried.

South River Road–Warranty Deed and Temporary Easement Grant for Parcel 1 and 1A

Director Kuhl presented a Warranty Deed and Temporary Easement Grant for Parcel 1 and 1A in the name of Richard J. and Barbara M. Godlewski. The Warranty Deed is \$5,520 and the Temporary Easement is \$470.

- Commissioner Murtaugh moved to accept the Temporary Easement and Warranty Deed for Parcel 1 and 1A as presented, second by Commissioner Byers; motion carried.

South River Road–Warranty Deed and Temporary Easement Grant for Parcel 2 and 2A

Director Kuhl presented a Warranty Deed and Temporary Easement Grant for Parcel 2 and 2A in the name of Richard J. and Barbara M. Godlewski. The Warranty Deed is \$3,960 and the Temporary Easement is \$570.

- Commissioner Murtaugh moved to accept the Temporary Easement and Warranty Deed for Parcel 2 and 2A as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed and Temporary Easement Grant for Parcel 2

Director Kuhl presented a Warranty Deed and Temporary Easement Grant for Parcel 2 in the name of W. Kelley Carr. The Warranty Deed is \$18,620 and the Temporary Easement is \$30.

- Commissioner Murtaugh moved to accept the Temporary Easement and Warranty Deed for Parcel 2 as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed for Parcel 5

Director Kuhl presented a Warranty Deed for Parcel 5 in the name of Edwin C. Uerkwitz, Trustee of the Edwin C. Uerkwitz Revocable Living Trust in the amount of \$69,384. Commissioner Murtaugh asked for the acreage on this parcel. Director Kuhl stated that it is 4.615 acres.

- Commissioner Murtaugh moved to accept the Warranty Deed for Parcel 5 as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed for Parcel 10

Director Kuhl presented a Warranty Deed for Parcel 10 in the name of Mary J. Anderson in the amount of \$7,035.

- Commissioner Murtaugh moved to accept the Warranty Deed for Parcel 10 as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed for Parcel 11

Director Kuhl presented a Warranty Deed for Parcel 11 in the name of Thomas L. Snyder and Beverly Ann Snyder in the amount of \$34,720.

- Commissioner Murtaugh moved to accept the Warranty Deed for Parcel 11 as presented, second by Commissioner Byers, motion carried.

McCarty Lane–Warranty Deed and Temporary Easement for Parcels 12, 12A, and 12B

Director Kuhl presented a Warranty Deed and Temporary Easement for Parcels 12, 12A and 12B in the name of Gerald L. Knoy and Betty J. Knoy. The Warranty Deed is in the amount of \$11,700 and the Temporary Easement is \$115.

- Commissioner Murtaugh moved to accept the Warranty Deed and Temporary Easement for Parcels 12, 12A and 12B as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed, Temporary Easement, and Partial Mortgage Release for Parcels 13 and 13A

Director Kuhl presented a Warranty Deed, Temporary Easement, and Partial Mortgage Release for Parcels 13 and 13A in the name of Josh M. Akemon and Barbara A. Akemon. The Warranty Deed is \$15,470 and the Temporary Easement is \$125.

- Commissioner Murtaugh moved to approve the Warranty Deed and Temporary Easement for Parcel 13 and 13A as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed for Parcel 15

Director Kuhl presented a Warranty Deed for Parcel 15 in the name of Sandra L. Demille in the amount of \$2,930.

- Commissioner Murtaugh moved to approve the Warranty Deed for Parcel 15 as presented, second by Commissioner Byers; motion carried.

Tyler Road Reconstruction (HES) Project–Addendum #5 from HE-BFS, LLC, Inc.

Director Kuhl presented Addendum #5 from HE-BFS, LLC, Inc. for approval. This is for the Hazard Elimination Safety (HES) project. Addendum #5 from HE-Butler, Fairman & Seufert LLC, Inc. in the amount of \$178,500 is for the construction inspection and all of the construction engineering work. Director Kuhl added that this is approximately 12% of the total cost, 3% below the maximum federal allowable of 15%.

- Commissioner Murtaugh moved to approve Addendum #5 from HE-Butler, Fairman & Seufert LLC, Inc. as presented, second by Commissioner Byers; motion carried.

Summer Hours for Highway Maintenance Garage

Director Kuhl submitted the new summer hours that began on June 1, 2010 for approval. Director Kuhl stated that changing the work schedule to four 10-hour days accommodates the painting season. The hours are from 6:00 a.m. to 4:30 p.m. four days per week.

- Commissioner Murtaugh moved to approve the Summer Schedule for the Highway Department as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed and Temporary Easement for Parcel 7 and 7A

Director Kuhl presented a Warranty Deed and Temporary Easement for Parcels 7 and 7A in the name of Philip A. Lewandowski and Patricia M. Lewandowski. The Warranty Deed is \$260,055 and the Temporary Easement is \$3, adding the Warranty Deed does include the house.

- Commissioner Murtaugh moved to approve the Warranty Deed and Temporary Easement for Parcel 7 and 7A as presented, second by Commissioner Byers; motion carried.

McCarty Lane–Warranty Deed for Parcel 14

Director Kuhl presented a Warranty Deed in the name of Efen Caballero and Lucila Caballero in the amount of \$14,245.

- Commissioner Murtaugh moved to approve the Warranty Deed for Parcel 14 as presented, second by Commissioner Byers; motion carried.

Bridge #210–Change Order #1 from HIS Constructors, LLC

Director Kuhl presented Change Order #1 from HIS Constructors, LLC. The Bridge #210 project began last year but was delayed as a result of utility lines being relocated. This change order is a result of the added mobilization of signs and equipment and is in the amount of \$10,484.63. The original amount of this project was \$827,888.84. This change order will bring the cost to \$838,373.47

- Commissioner Murtaugh moved to approve Change Order #1 from HIS Constructors as presented, second by Commissioner Byers; motion carried.

BUILDING COMMISSION–Ron Highland

Unsafe Structure, Eric Tendam–835 E 725 N, West Lafayette

Building Commissioner Ron Highland asked to reaffirm the order to demolish the structure at 835 E 725 N, West Lafayette, IN. Building Commissioner Highland stated that a bid has been accepted. Attorney Luhman stated, at the June 7, 2010 meeting the Commissioners did find this is an un-safe structure that had not been demolished and the property removed as ordered by the Building Commissioner. The Commissioners ordered the Building Commissioner demolish the structure and accepted the lowest bid received. Attorney Luhman presented a formal findings and fact of action taken, which confirm the action that the Commissioners took on June 7, 2010 and will be in a form that can be recorded in the recorders office to protect and perfect a lien, for the cost that is extended by the County. If this order meets with the Commissioners approval, a motion to approve the findings and fact and actions taken in respect to the Eric Tendam property is needed. Commissioner Murtaugh asked how soon the demolition would occur. Building Commissioner Highland stated that demolition could occur at anytime after the order passes. Building Commissioner Highland stated that he would prefer a Sheriff be present when the demolition crew makes initial contact with the property owner. Commissioner Murtaugh asked if the demolition would take place in a particular timeframe and did it allow any time for the removal of

personal property. Attorney Luhman stated that it does not and would be done as soon as the contractor is available, adding that the property owner is on notice that he needs to remove any personal property.

Commissioner Byers asked for any public comments; there was none.

- Commissioner Murtaugh moved to approve the findings and fact and action taken in regards to the unsafe structure located at 835 E 725 N Eric Tendam property, second by Commissioner Byers; motion carried.

Monitor School–360 N CR 775 E aka New Directions

Building Commissioner Ron Highland stated that at the June 7, 2010 meeting the Commissioners requested that notification be sent to the owner and any other interested parties requesting that the property be boarded to make the building safe. Building Commissioner Highland stated that all interested parties have been notified that the property requires attention and of the hearing today. Attorney Luhman stated that the hearing, set for today, is to determine whether or not there is an unsafe structure or condition located at 360 N CR 777 E known as Old Monitor School. Testimony presented at the June 7, 2010 meeting regarding the condition of the building indicated that it is unsafe. The Building Commissioner determined that the structure is not secure and is a hazard for anyone entering the building. A notice was forwarded to all interested parties directing that the building be secured by boarding the windows and doors so that it could not be entered by vandals or neighboring children within 10 days and notifying them of today's hearing. In addition, at today's hearing, the Commissioners could determine that the building is unsafe and if the owners have not secured it the Commissioners can order the Building Commissioner to secure it. Any cost incurred by the County would cause a lien to be placed on the property. New Directions Inc. is the legal owner. Community Foundation of Greater Lafayette does have an interest in the property dating back to 1977 by virtue of a prior option to repurchase. Attorney Luhman went on to say that New Directions is no longer in operation and does not have any officers or employees and a bankruptcy proceeding is pending. Building Commissioner Highland asked that the Commissioners order the building be made secure, adding the County does have the funds to secure the building, but does not have the funds to demolish a structure of this size.

Commissioner Byers asked for public comments.

Jacque Chosnek,–*Attorney for New Directions*– stated that New Directions closed in 2007 and filed for Chapter 7 Bankruptcy in July of 2008, at which time all liquid assets were turned over to the administrators part of the bankruptcy. The property was not able to be sold through the bankruptcy and was forced into foreclosure. It was available at the Sheriff's sale in January, but did not sell at that time. It remains the property of New Directions that is a defunct organization with no employees or board of directors. Attorney Chosnek stated that since New Directions does not have any funds available to secure the building there would not be any objection to the County securing that building. Commissioner Murtaugh asked who should be contacted if they were interested in purchasing the building. Attorney Chosnek said that they should contact her.

Paul Wright,–*West Point*–asked if the County puts funds into the (New Directions) building and it is not sold would the County be responsible from that point on. Attorney Luhman stated that the County would not be responsible and added that the County does have a responsibility to address any unsafe building issues and can place a lien on the property to re-coop any of those costs, adding that the County is first in line for any reimbursements.

Commissioner Byers asked Attorney Luhman to list all of the interested parties for the record. Attorney Luhman stated that New Directions Inc. the legal owner, the Community Foundation of Greater

Lafayette, J.P. Morgan Chase Bank, Fifth Third Bank, and Kimberly A. Gilbert who is the Chapter 7 trustee at the bankruptcy. The only other interested party is the County itself, which has an interest in New Directions Inc's obligation under the Department of Commerce Grant, which is not an actual interest in the property itself.

Commissioner Murtaugh asked if only the first floor needed to be secured. Building Commissioner Highland stated that securing the first floor should be sufficient and that if the County finds that it is not then the second floor will need to be secured also. Attorney Luhman said that placing a fence around the structure is also a possible solution.

- Commissioner Murtaugh moved to approve the request to obtain bids on securing the structure known as Monitor School, second by Commissioner Byers; motion carried.

GRANTS–Laurie Wilson

Permission to Accept–Indiana Family and Social Services Administration Grant

Grant Facilitator Laurie Wilson requested permission to accept a \$132,060 Indiana Family and Social Services Administration Grant for the Prosecutor. This will be used to help fund the Adult Protective Services Program involving cases of abuse, neglect, or exploitation of an endangered adult. This is their annual grant.

- Commissioner Murtaugh moved to grant permission to accept the Indiana Family and Social Services Administration Grant as presented, second by Commissioner Byers; motion carried.

Permission to Apply–Indiana Supreme Court Grant

Grant Facilitator Laurie Wilson requested permission to apply for a \$25,000 Indiana Supreme Court for Superior Court 3. This is a continuation of a current court improvement program; it helps with mediation, facilitation, and CHINS in child support cases.

- Commissioner Murtaugh moved to grant permission to apply for the Indiana Supreme Court Grant as presented, second by Commissioner Byers; motion carried.

Permission to Apply–International Association of Assessing Officers Scholarship

Grant Facilitator Laurie Wilson requested permission to apply for a \$500 scholarship for the Assessor to attend the National Assessor Conference in Orlando Florida. The International Association of Assessing Officers grants this scholarship.

- Commissioner Murtaugh moved to grant permission to apply for the International Association of Assessing Officers Scholarship as presented, second by Commissioner Byers; motion carried.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS ON FILE

Weights and Measures

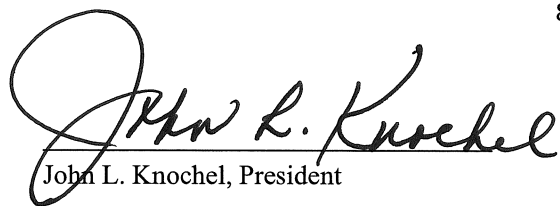
Reports are on file in the Commissioners Office.

PUBLIC COMMENTS

Jim Pairitz, 8323 W 1200 S, West Point—said that he fully supports the UZO changes made recently at the Area Plan Ordinance Committee, specifically the setback for wind turbines to be measured from the property line of non-participating landowners. Mr. Pairitz recommends that when presented to the Commissioners this change be passed immediately. This decision will affect thousands of residents across tens of thousands of acres for a period of 30 years or more and deserves careful deliberation. Mr. Pairitz said that he believes the ordinance that the Commissioners passed on April 5, 2010 has addressed many of the most important areas that need to be considered with one exception. The ordinance does not include a specification for the minimum distance a WECS system can be installed from the property line of a non-participating landowner. In the UZO, a 1000-foot setback was based on an APC review of the information that was available to them prior to 2007. Since then many disagreements over setback limits has been increasing in frequency and intensity within local communities, within the state, and even within countries around the world. New studies have been conducted and research efforts have been launched that would investigate this area and try to come up with a setback that would be determined on scientific data rather than standard practice. Most communities have used a 1000-foot setback because that is what has been done in the past. At the last APC ordinance committee it was requested that a group be formed that would focus on developing an appropriate setback for WECS. Group members will be chosen by the APC and include representatives from all the different stakeholders. It was also requested that a moratorium be enacted to allow the necessary time for the committee's recommendation to be incorporated in the UZO, which decision rests in the Commissioners' hands. Citizens from Wayne, Randolph, and Jackson Township come now to respectfully request that the Commissioners grant a moratorium on accepting partitions for WECS. This would benefit all parties that are involved and allow enough time to update the UZO without the normal rancor and contention that accompanies a decision like that and often ends up being decided in a court of law at much expense and time, which is a waste of resources. Decisions made with the latest most accurate information are much better than those decisions imposed on the stakeholders based on standard practices. The Commissioners have demonstrated good judgment in the many facets of the ordinance. However, the set back issue remains. We request that the Commissioners give the citizens the time and the due diligence so that last key element can be determined in that orderly fashion. Establishing a moratorium is not an uncommon practice today because many communities recognize that time is needed, to sort through this. We have all had to learn a lot and Attorney Luhman has done a great job putting together the ordinance that the Commissioners adopted. We request that the Commissioners start the process by asking Attorney Luhman to begin with what a moratorium would look like for consideration at the next meeting.

Commissioner Murtaugh moved to adjourn.

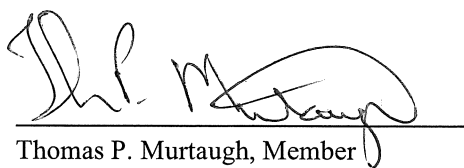
**BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE**



John L. Knochel, President

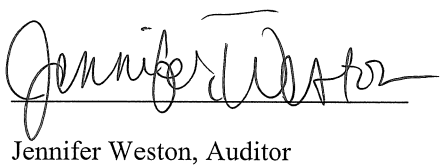
ABSENT

David S. Byers, Vice President



Thomas P. Murtaugh, Member

ATTEST:



Jennifer Weston, Auditor